

## ORDINANCE NO. 15-528

**BE IT ORDAINED** by the City Council of the City of Huntsville, Alabama, that Section 2-222 of the Code of Ordinances of the City of Huntsville, Alabama, effective April 24, 2003, as amended, is hereby amended in its entirety to read as follows:

Sec. 2-222. - Cell phone policy.

This section establishes the city's policy concerning the use of city cell phones that are provided to employees and officials for their official use, and establish the means by which the city will reimburse its employees and officials who use their personal cell phone for city business. In this section, the term "cell phone" means a mobile communication device having telephone capabilities, and the term "cell phone allowance" means the amount paid to employees to reimburse them for use of their personal cell phone for city business. The term "city phone" means a cell phone owned by the city and any related equipment used with it.

(1) Eligibility.

a. Elected officials. The city will not provide an elected official a city phone but will provide a cell phone allowance at the request of the official.

b. Employees. An employee may be furnished a city phone or receive a cell phone allowance only in the following situations:

1. Job responsibilities of the employee are such that it is in the City's best interest that the employee be able to communicate by cell phone for work-related reasons on a regular basis, and the use of other communications equipment, including a pager, is impractical; or

2. The employee can significantly enhance work-related personal safety with a cell phone; or

3. The mayor or his/her designee requires the employee to be available by cell phone whenever possible.

The city will furnish a city phone to an employee only when it is practical to share it with other employees, or as directed by the mayor or his/her designee. All other employees will receive a cell phone allowance when they qualify according to this policy.

(2) City phones.

a. Approval. The city will provide a city phone to an employee who qualifies under this policy at the discretion of the employee's department head.

b. Authorized uses. The use of a city phone shall be for official use, except in the case of emergencies. City phones cannot be used at any time in violation of local, state or federal laws, nor for the purpose of personal financial gain, nor in violation of any departmental work rules.

c. Authorized city cell phone vendors. Only vendors authorized by the city, in accordance with state law, will provide service related to city phones.

(3) Cell phone allowance.

a. Approval. Department head will submit a written or email request to the finance director for an employee to receive a cell phone allowance, to include employee's name, employee number, job title, basis for request, and monthly amount requested.

The finance department will ensure the request is complete as required by this policy, obtain employee acknowledgement of this policy's requirements, and obtain approval of the request from the mayor or his/her designee when required.

b. Payment. An employee or official authorized to receive a cell phone allowance will receive a monthly payment, which will be included in his city payroll check. The payment will begin the first full month after approval, or as is consistent with finance department payroll policy.

c. Taxability. The cell phone allowance paid to an employee or official may be subject to or exempt from federal and state income taxes based on the regulations in effect from time to time.

d. Maximum amount. The amount of reimbursement must be consistent with the cost the employee is reasonably expected to incur for using his/her personal cell phone for city business, and in the best interest of the city, all communication options considered. The maximum amount is thirty-five dollars (\$35.00) per month, except in special high-use cases approved by the mayor or his/her designee, for which the maximum amount is seventy dollars (\$70.00) per month. These maximum amounts may be modified in the annual budget ordinance, and the amounts paid to any employee may be increased or decreased at any time at the discretion of the City.

(5) Responsibilities.

a. Department heads will establish policies to help ensure compliance with the terms of this policy and the Personnel Policies and Procedures Manual by department employees.

b. Employees furnished a city phone will use the device in compliance with the Personnel Policies and Procedures Manual, including those that pertain to city-owned information technology equipment. The City reserves the right to review all electronic records on City issued phones and to obtain relevant information from the telephone company or carrier, if the City administration considers in its sole discretion that there is a legitimate business reason to do so. Thus, employees do not have a reasonable expectation of privacy with respect to the use of City issued cell phone and by use of such devices, do consent to all City sponsored monitoring. While employees receiving cell phone allowances applicable to the business use of their personal cell phone may generally have an expectation of privacy on their personal cell phones, there may be times when the City will have the right or duty to obtain access for business purposes to the electronic records relevant to the employee's business use of that personal cell phone. Such occasions may arise with respect to the City's duty to preserve or produce evidence relevant to anticipated or ongoing litigation or otherwise obtain access for law enforcement purposes.

c. Employees using a city phone, or personal cell phone for city business purposes, will not use it in a manner that would jeopardize the safety of themselves or others. Specifically, employees shall comply with Alabama State law as set forth in Code of Alabama Section 32-5A-350 (2013) which prohibits a person from operating a motor vehicle on a public road, street, or highway in Alabama while using a wireless telecommunication device (as defined within the statute) to write, send, or read a text-based communication (as defined therein) except in certain specific circumstances detailed within the state statute.

d. Employees who receive a cell phone allowance agree to provide their cell phone number to their supervisor, to accept and make city business calls on their phone when required by their supervisor, not represent the cell phone he/she uses as the property of the City.

e. An employee must sign an acknowledgement of the terms of the policy that pertain to the employee prior to being issued a city phone or receiving a cell phone allowance.

(6) Administration.

The finance department will administer this policy as directed by the mayor or his/her designee, is authorized to periodically require an employee to submit evidence that the cost of using his personal cell phone for city business is commensurate with his cell phone allowance, and is authorized to evaluate compliance with this policy.

**ADOPTED** this the 13th day of August, 2015.

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President of the City Council of  
the City of Huntsville, Alabama

**APPROVED** this the 13th day of August, 2015.

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Mayor of the City of  
Huntsville, Alabama